

EXHIBIT 5

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 1:18-CV-05775-ERK-CLP

5 -----x
6
7 STAR AUTO SALES OF BAYSIDE, INC.
8 (d/b/a STAR TOYOTA OF BAYSIDE), STAR
9 AUTO SALES OF QUEENS, LLC (d/b/a STAR
10 SUBARU), STAR HYUNDAI LLC (d/b/a
11 STAR HYUNDAI), STAR NISSAN, INC. (d/b/a
12 STAR NISSAN), METRO CHRYSLER
13 PLYMOUTH INC. (d/b/a STAR CHRYSLER
14 JEEP DODGE), STAR AUTO SALES OF
15 QUEENS COUNTY LLC (d/b/a STAR FIAT)
16 And STAR AUTO SALES OF QUEENS
17 VILLAGE LLC (d/b/a STAR MITSUBISHI),

18
19 Plaintiffs,

20
21 v.

22 VOYNOW, BAYARD, WHYTE AND COMPANY, LLP,
23 HUGH WHYTE, RANDALL FRANZEN AND ROBERT
24 SEIBEL.

25
26 Defendants.

27 -----x
28
29 2000 Market Street
30 Philadelphia, Pennsylvania

31
32 September 13, 2022
33 10:42 a.m.

34
35 DEPOSITION of STEVEN KOUFAKIS, a
36 Plaintiff, held at the above-entitled time and
37 place, taken before Carolyn Crescio, a
38 Professional Shorthand Reporter and Notary
39 Public of the State of Pennsylvania.

40 * * *

1 S. KOUFAKIS

2 signer to review that documentation before
3 signing the check?

4 A. Usually that's what happens.

5 Q. And were there ever any occasions in
6 your capacity as an authorized check signer of
7 the business, where you did not do that?

8 A. Yes, on occasion.

9 Q. And how often on occasion was that
10 where you did not review backup documentation,
11 or make sure that a check was for legitimate
12 expenses?

13 A. There were times we could literally
14 sign a hundred checks in a day. And while
15 you're reviewing things with backup, assuming
16 the backup is accurate, they would come over and
17 say, Just here sign this, one more. And it
18 would be without backup. And I would say, What
19 is this for? And they would give an answer.

20 And because the cell phone is ringing,
21 there's three people asking you to do something,
22 sometimes we would not, on occasion, would not
23 check, and trust the employee.

24 Q. So you would not be paying attention
25 to what it was you were signing. Fair?

1 S. KOUFAKIS

2 MR. FELSEN: Objection.

3 A. No, I didn't say that.

4 Q. So you would sign checks without the
5 documentation backing it up?

6 MR. FELSEN: Objection.

7 A. I signed the check, asked, What is
8 it for? They would tell me. It sounded
9 feasible. Yes.

10 Q. And you would sign it without the
11 backup documentation, that you could --

12 A. They said they would bring it later.

13 Q. Did that, in fact, happen? Did they
14 bring it later after you had signed a check?

15 A. Sometimes I would forget. They
16 would not offer.

17 Q. Did you ever sign blank checks?

18 A. No.

19 Q. Did you ever --

20 A. Yes. In the motor vehicle account;
21 the only account that that would happen.

22 Q. When you say the motor vehicle
23 accounts, you're talking about the DMV checks?

24 A. Correct.

25 Q. Would there ever be occasion that

1 S. KOUFAKIS

2 that's not Bates stamped.

3 If you can turn to -- this is the one we
4 previously marked as Michael Koufakis 8. if you
5 can turn to the sixth page of the exhibit.

6 A. Okay. Right there.

7 Q. So this is the check dated
8 November 23rd, 2015, payable to Capital One. Is
9 that your signature?

10 A. Looks like it.

11 Q. I'm going to ask you about all of
12 these. Is it fair to say you don't have a
13 recollection as to what, if anything, was
14 provided to you as far as backup, prior to
15 signing these checks?

16 A. Seven years ago? Really?

17 Q. So you don't?

18 A. No.

19 Q. All right. The next page of the
20 exhibit, the check for 15,200, is that your
21 signature?

22 A. Looks like it, yes.

23 Q. Then nine pages later, there's a
24 check 8664 -- right there. You have it. That's
25 a check for 15,500 again, dated May 26, 2015.

EXHIBIT 5